

NO. X06-UWY-CV-18-6046436 S :	SUPERIOR COURT
ERICA LAFFERTY, ET AL :	COMPLEX LITIGATION DOCKET
V. :	AT WATERBURY
ALEX EMRIC JONES, ET AL :	JULY 12, 2022
NO. X06-UWY-CV-18-6046437 S :	SUPERIOR COURT
WILLIAM SHERLACH :	COMPLEX LITIGATION DOCKET
V. :	AT WATERBURY
ALEX EMRIC JONES, ET AL :	JULY 12, 2022
NO. X06-UWY-CV-18-6046438 S :	SUPERIOR COURT
WILLIAM SHERLACH, ET AL :	COMPLEX LITIGATION DOCKET
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**DEFENDANT ALEX EMRIC JONES' MOTION TO QUASH OR MODIFY SUBPOENA
AD TESTIFICANDUM**

Defendant Alex Emric Jones moves to quash or, in the alternative, modify a trial subpoena (styled "subpoena ad testificandum") served on him on April 5, 2022. The subpoena commands him to appear before the Court "on the 1st day of September, 2022 at 10:00 A.M., or to such day thereafter and within sixty thereof" to testify in the above captioned matters. The breadth of the subpoena is unreasonable and unduly burdensome as it functionally requires Mr. Jones to attend every day of an anticipated six-week trial. Not only does the breadth of the subpoena saddle Mr. Jones with expensive accommodation costs that will easily exceed \$150 per day, but it also requires a physical impossibility by demanding his presence in Connecticut when his presence will also be demanded in a similar trial in Texas.

For those reasons, Mr. Jones ask the Court to quash the subpoena or modify its requirements by requiring the Plaintiffs to identify specific days on which Mr. Jones'

testimony will be required and to provide Mr. Jones no less than 48 hours' notice on when his testimony will be required.

RELEVANT FACTUAL BACKGROUND

The Court is very familiar with the history and nature of this case. Thus, Mr. Jones only recites facts necessary to the consideration of this motion.

On April 5, 2022, the Plaintiffs served Mr. Jones with a trial subpoena (styled "subpoena ad testificandum"). See **Exhibit A**. It requires Mr. Jones to appear before the Court "on the 1st day of September, 2022 at 10:00 A.M., or to such day thereafter and within sixty thereof" to testify in the above captioned matters. To date, the Plaintiffs have not estimated what specific days Mr. Jones' testimony will be required.

Jury selection in the above captioned cases will begin on August 2, 2022. The Court estimated during its June 2, 2022 status conference that the start of evidence would be September 6, 2022. Dkt. 847.00, pp. 19.

As Mr. Jones and Defendant Free Speech Systems, LLC have apprised the Court previously, Mr. Jones is a defendant in two matters in Texas that advance similar claims: *Heslin v. Jones*, GN-18-001842 and *Fontaine v. Jones*, GN-18-001605. Dkt. 846.00, p. 2. *Heslin* will be tried beginning on July 25, 2022, and Mr. Jones' Texas counsel has estimated that it will take two to three weeks to complete. *Fontaine* will be tried beginning on September 19, 2022, and Mr. Jones' Texas counsel also estimates that it will take two to three weeks to complete. Mr. Jones' involvement will certainly be required for those matters.

Because of the overlapping trials, Mr. Jones has previously asked the Court to grant a brief continuance of the trial for the above-captioned cases to enable him to attend

to his Texas matters first. Dkt. 846.00, p. 2; Dkt. 847.00, pp. 12-15. The Court has denied those requests and stated that the trial dates are firm ones.

ARGUMENT

At the outset, the Plaintiffs' subpoena mirrors the language of Conn. Gen. Stat. § 52-144 except for the case-specific language it contains. § 52-144, however, does not statutorily bind the Court to enforce the exact language of the subpoena. Instead, the Court still retains its equitable power to quash or modify the subpoena if it is unreasonable and unduly burdensome. The subpoena issued to Mr. Jones qualifies under this standard.

The Connecticut Supreme Court has adopted the test set forth in *Shulansky v. Rodriguez*, 44 Conn.Sup. 72 (1994) as to what constitutes an unduly burdensome subpoena. *Shulansky v. Rodriguez*, 235 Conn. 465, 468 (1995). The *Shulansky* test examines how difficult it would be for the subpoenaed party to comply. *Id.* at 467. At least one trial court has added a further guidepost from Merriam-Webster's dictionary: "The dictionary definition of unduly burdensome would be that which is excessively oppressive." *Hartford County Sheriffs Dept. Communities Charities Ass'n v. Blumenthal*, 47 Conn.Supp. 447, 475 (2001).

The vagaries of the Plaintiffs' subpoena to Mr. Jones render it excessively oppressive. The Court has reserved approximately six weeks for the presentation of evidence. The Plaintiffs' subpoena compels Mr. Jones to relocate himself thousands of miles away from his home for weeks at his own expense to be at their beck and call as to when he will testify in the above-captioned actions. If he fails to relocate himself so as to be available at their capricious whims, he will be subject to being held in contempt of court again – a development that the Plaintiffs undoubtedly are gleefully anticipating as their

primary goal in this litigation has been to embarrass Mr. Jones and shut down his businesses. Not only does this state of affairs impose a financial cost on Mr. Jones in the form of lodging, other expenses, and lost income, but it also hopelessly hamstrings his ability to aid in the preparation of his defense in the *Fontaine* matter.

An average hotel of decent quality and condition in the Waterbury Connecticut area costs approximately \$150 per night after taxes and fees. Mr. Jones will likely have to bear that cost for three weeks, costing him \$3,150 at least. Because of the politically charged nature of this case, Mr. Jones will not only have to bear his own lodging costs, but also that of his security team, which could double or triple the cost.

During that time period, Mr. Jones will face serious difficulties in operating his business. He is a journalist and a nationally known media personality who unequivocally bears more than the lion's share of sustaining his businesses. Forcing him to do nothing in a hotel or a courtroom for weeks at a time will deprive him of the ability to earn a living and cause him a severe financial hardship. While the Plaintiffs wish to see Mr. Jones stripped of his microphone and his access to the marketplace of ideas, the power of the subpoena is an abusive tool by which to accomplish it, and the breadth of the subpoena issued poses a severe business hardship to Mr. Jones.

Finally, Mr. Jones will face three overlapping trials in Sandy Hook related matters from July 25, 2022 to October 2022. He has sought to reschedule some so he can at least have minimal time to prepare for each. His efforts have been rebuffed. Forcing him to remain idle in a hotel room or a courtroom in Connecticut awaiting the Plaintiffs' pleasure only further imposes an excessive burden on him and his lawyers in preparing his defenses in the overlapping actions. While the Plaintiffs may not appreciate the burdens

imposed by that situation, the Court has already demonstrated that it is aware of those burdens when it opined on the transient nature of trial and deposition preparation in awarding the Plaintiffs attorneys' fees for Mr. Jones' cancelled depositions. Dkt. 854.00. As the Court is undoubtedly well aware, litigants and their counsel need more than scatterbrained preparation at the end of trying days of litigation to adequately present trial defenses. The issues in Mr. Jones' cases are complex and require detailed preparation. Mr. Jones cannot engage in such preparation while under the Plaintiffs' subpoena.

CONCLUSION

The combination of the financial costs imposed by breadth of the Plaintiff's subpoena and the burdens placed on Mr. Jones' time to prepare for trial in other matters clearly renders the Plaintiffs' subpoena to him unduly burdensome. Thus, Mr. Jones asks the Court to either quash it or modify it as follows: "Mr. Jones is commanded to appear before the Court to testify upon 48 hours' notice by Plaintiffs' counsel that they intend to offer his testimony on specific dates."

This modification will enable Mr. Jones to make arrangements to come to Connecticut without sustaining substantial financial costs or experiencing unreasonable burdens in his preparation for overlapping trials. Fundamental fairness requires such a modification at the very least.

Respectfully Submitted,

Alex Jones,
Free Speech Systems, LLC;

BY:/s/ Norman A. Pattis /s/
/s/ Kevin Smith /s/
Norman A. Pattis
Kevin Smith

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ORDER

The foregoing motion is hereby:

GRANTED / DENIED

By: _____
The Court

CERTIFICATION

This is to certify that a copy of the foregoing has been emailed and/or mailed, this day, postage prepaid, to all counsel and pro se appearances as follows:

For Genesis Communications Network, Inc.:

Mario Kenneth Cerame, Esq.
Brignole & Bush LLC
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BY: /s/ Norman A. Pattis /s/
/s/ Kevin Smith /s/
Norman A. Pattis

TO: ALEX EMRIC JONES

SUBPOENA AD TESTIFICANDUM

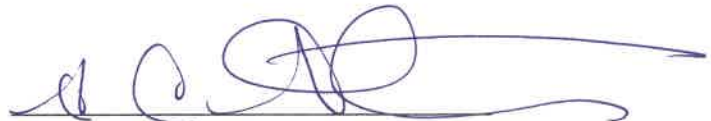
BY THE AUTHORITY OF THE STATE OF CONNECTICUT, You are hereby commanded to appear before the WATERBURY SUPERIOR COURT, 400 Grand Street, Waterbury, CT 06702 on the 1st day of September, 2022 at 10:00 A.M., or to such day thereafter and within sixty days thereof, on which such actions as described hereafter are legally to be tried, to testify what you know in such civil actions titled *Lafferty, Erica, et al. v. Jones, Alex Emric, et al.*; *Sherlach, William v. Jones, Alex Emric, et al.*; and *Sherlach, William, et al. v. Jones, Alex Emric, et al.*, Docket Nos. UWY-CV18-6046436-S, UWY-CV18-6046437-S, and UWY-CV18-6046438-S, pending in the Superior Court, Complex Litigation Docket in Waterbury.

HEREOF FAIL NOT, UNDER PENALTY OF THE LAW

To any proper officer or indifferent person to serve and return.

Dated at Bridgeport, Connecticut on the 5th day of April, 2022.

ATTEST A TRUE COPY
ROBERT M. WOLFE
STATE MARSHAL
FAIRFIELD COUNTY



Alinor C. Sterling
Commissioner of the Superior Court
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